



## 39 CFR Parts 111, 113, and 211

### Treatment of Regulations on Hazardous, Restricted, and Perishable Mail

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service amends certain regulations to clarify the regulatory treatment of Publication 52, *Hazardous, Restricted, and Perishable Mail*.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Dale E. Kennedy, Director, Product Classification, at 202-268-6592.

**SUPPLEMENTARY INFORMATION:** The Postal Service has long maintained regulations on hazardous, restricted, and perishable mail. For many years, those regulations were located in Mailing Standards of the United States Postal Service, *Domestic Mail Manual* (“DMM”). The DMM is a regulation of the Postal Service. 39 CFR 211.2(a)(2). Annual editions of the DMM are incorporated by reference into 39 CFR 111.1. As explained in Postal Service regulations, interim regulations are published in the DMM pending the next volume’s incorporation into the Code of Federal Regulations, and changes to the DMM are announced in the *Federal Register*. 39 CFR 111.3. As an additional reference, the Postal Service developed Publication 52, *Hazardous, Restricted, and Perishable Mail*.

On July 28, 2014, as part of a continuing initiative to reduce the size of the DMM, the Postal Service removed from that publication the detailed mailing standards relating to hazardous, restricted, and perishable materials. In place of these detailed provisions, revised DMM 601.8.0 advised that mailing standards

specific to hazardous, restricted, and perishable mail would be incorporated into Publication 52, and could be found on the Postal Explorer website at [pe.usps.com](https://pe.usps.com). The Postal Service subsequently promulgated new regulations incorporating an edition of Publication 52 by reference into 39 CFR 113.2. See 83 FR 1189 (2018).

The Postal Service, in consultation with the Office of the Federal Register, has determined that clarification of the status of Publication 52 would be helpful, particularly in order to ensure that changes to Publication 52 are comprehensively noticed in the *Federal Register*. To that end, the Postal Service hereby makes certain changes to its rules.

First, DMM section 601.8.1 is amended to clarify that the substantive mailability rules in Publication 52, as in effect and available on the Postal Service's website at any given time, are incorporated by reference into that DMM section.

Second, 39 CFR 211.2(a) will be amended to clarify that Publication 52 contains regulations of the Postal Service. In connection with this change, language in 39 CFR 211.2(a) regarding publication in the *Federal Register* and Code of Federal Regulations will be moved to more clearly express the intent that any regulations of the Postal Service may, where appropriate, be published in those outlets. Moreover, 39 CFR 211.2(a)(3) is expanded somewhat to clarify that Publications and Memoranda of Policy may also qualify as regulations, and that status as regulations depends not on the formal designation of a document, but on its statement of binding rules of future effect beyond those stated elsewhere in Postal Service regulations.

Third, 39 CFR part 113, which includes the incorporation by reference of Publication 52 (39 CFR 113.2), is removed. The temporary rules in 39 CFR 113.3

regarding COVID-19 related Category B infectious substances are duplicative of rules in Publication 52, and so it is unnecessary to maintain such rules in the Code of Federal Regulations. Compare 85 FR 23745 with Postal Bulletin 22544 (Apr. 23, 2020), at 6–7 (amending Publication 52 appendix C, USPS Packaging Instruction 6C).

## **List of Subjects**

### **39 CFR Part 111**

Administrative practice and procedure, Postal Service.

### **39 CFR Part 113**

Administrative practice and procedure, Hazardous substances, Postal service.

### **39 CFR Part 211**

Administrative practice and procedure, Postal Service.

Accordingly, for the reasons stated, the Postal Service amends 39 CFR parts 111, 113, and 211 as follows:

### **PART 111—[AMENDED]**

1. The authority citation for 39 CFR part 111 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

2. Revise the Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM) as follows:

### **Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)**

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## **600 Basic Standards For All Mailing Services**

### **601 Mailability**

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## **8.0 Hazardous, Restricted, and Perishable Mail**

### **8.1 General**

Effective July 7, 2014, all content applicable to hazardous, restricted, or perishable mail was removed and incorporated into Publication 52, *Hazardous, Restricted, and Perishable Mail*. The contents of Publication 52, as in effect and available on the Postal Service website at the relevant time, are incorporated by reference into this section.

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### **PART 113—[REMOVED]**

3. Under the authority of 39 U.S.C. 401(2), remove part 113.

### **PART 211—APPLICATION OF REGULATIONS**

4. The authority citation for part 211 is revised to read as follows:

**Authority:** 39 U.S.C. 201, 202, 205, 401–404, 406, 407, 410, 411, 413, 414, 416, 1001–1011, 1201–1209, 2008–2010, 2201, 2601–2605, 2901–2902, 3001–3018, 3201–3220, 3401–3406, 3621–3629, 3631–3633, 3641, 3654, 3681–3685, 3691, 5001–5007, 5401–5403, 5601–5605; 39 U.S.C. note.

5. Amend § 211.2 by revising the introductory text to paragraph (a) and paragraphs (a)(2) and (3) to read as follows:

#### **§ 211.2 Regulations of the Postal Service.**

(a) The regulations of the Postal Service consist of the following, any of which may, but are not required to, be published in the *Federal Register* and the Code of Federal Regulations:

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(2) The *Mailing Standards of the United States Postal Service, Domestic Mail Manual*; the *Postal Operations Manual*; the *Administrative Support Manual*; the *Employee and Labor Relations Manual*; the *Financial Management Manual*; the *International Mail Manual*; those portions of Chapter 2 of the former *Postal Service Manual* and chapter 7 of the former *Postal Manual* retained in force; and Publication 52, *Hazardous, Restricted, and Perishable Mail*; and

(3) Headquarters Circulars, Management Instructions, Regional Instructions, Handbooks, Memoranda of Policy, Publications, delegations of authority, and other regulatory issuances and directives of the Postal Service or the former Post Office Department, to the extent that such documents state binding rules of future effect beyond those stated in other regulations of the Postal Service then in effect.

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